

### REMARKS/ARGUMENTS

Claims 1 and 3 have been canceled. Claims 18 and 19 have been added. Claims 2, and 4 – 19 are presented for reconsideration and further examination in view of the foregoing amendments and following remarks.

In the outstanding Office Action, the Examiner objected to the drawings as failing to include the reference numbers 14, 16, and 35 discussed on page 10 of the specification and number 14 in claim 6; objected to claim 5 because of informalities; provisionally rejected claims 1 - 5, 7, and 8 on the ground of non-statutory obviousness-type double patenting over claims 1, 2, 4, 6, 14, and 15 of copending U.S. Patent Application No. 10/518,397; rejected claims 1 - 4 and 12 - 17 under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent No. 5,818,993 to Chudoba et al.; rejected claims 1 - 6 and 13 - 17 under 35 U.S.C. § 103 (a) as being unpatentable over U.S. Patent No. 4,946,249 to Barlow et al. and further in view of U.S. Patent No. 5,717,813 to Harman et al.; rejected claim 7 under 35 U.S.C. § 103 (a) as being unpatentable over Barlow et al. and Harman et al. and further in view of U.S. Patent No. 6,412,640 to Destanque et al.; and claims 8 - 11 were objected to as being dependent upon a rejected base claim.

During a telephonic interview with Applicant's Representative, Derek Richmond on March 28, 2006, the Examiner clarified that only claims 9 - 11 are allowable.

By this Response and Amendment, claims 1 and 3 have been canceled; claims 2, 5 - 9, 12, and 13 have been amended; and new claims 18 and 19 have been added. Claim 2 is a combination of the former claims 1 and 2; claim 7 is a combination of the former claims 1 and 7; and claim 8 is a combination of the former claims 1 and 8. Claim 5 has been amended to correct an informality regarding dependency and to correct typographical errors. Claims 6, 9, 12, and 13 now depend from

claim 8. New claim 18 is based on the former claim 1, but restricted to the feature that the pin holder is formed as one piece. *See* for example, the specification at page 2, third paragraph (as an alternative to the two shell part feature of former claim 2). New claim 19 depends from claim 18 and support for the features can be found for example on page 3, third sentence as well as in Figures 1 - 6.

It is respectfully submitted that the above amendments do not introduce any new matter to this application within the meaning of 35 U.S.C. §132

#### **Objection to the Drawings**

The Examiner objected to the drawings for failing to show reference numerals 14, 16, and 35.

#### **Response**

In response, Applicant respectfully submits that Figures 7 and 8 show the relevant reference numbers. As such, Applicant respectfully requests that the objection be withdrawn.

#### **Objection to the Claims**

The Examiner objected to claim 5 because of informalities. In particular, the Examiner stated that “ii” and “en-gage” are typographical errors.

#### **Response**

By this Response and Amendment, Applicant has amended the claims to correct the informalities noted by the Examiner.

In particular, Applicant has amended claim 5 by replacing "ii" with --11-- and "en-gage" with --engage--. Accordingly, reconsideration and withdrawal of the objection are respectfully requested.

### **Double Patenting**

The Examiner provisionally rejected claims 1 - 5, 7, and 8 on the ground of non-statutory obviousness-type double patenting over claims 1, 2, 4, 6, 14, and 15 of copending U.S. Patent Application No. 10/518,397.

### **Response**

A double patenting rejection of the obviousness-type is "analogous to [a failure to meet] the nonobviousness requirement of 35 U.S.C. 103" except that the patent principally underlying the double patenting rejection is not considered prior art. *In re Braithwaite*, 379 F.2d 594, 154 USPQ 29 (CCPA 1967). Therefore, any analysis employed in an obviousness-type double patenting rejection parallels the guidelines for analysis of a 35 U.S.C. 103 obviousness determination. *In re Braat*, 937 F.2d 589, 19 USPQ2d 1289 (Fed. Cir. 1991); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985). See MPEP 804 II.B.1.

In the Office Action, the Examiner has failed to provide an analysis that parallels the guidelines for analysis of a 35 U.S.C. 103 obviousness determination. In other words, the differences between the conflicting claims have not been discussed and no motivation for modifying the copending applications has been given.

However, in order to expedite prosecution of this application, Applicant will submit a Terminal Disclaimer in the last to issue of these applications.

**Claim Rejection Under 35 U.S.C. § 102 (b)**

The Examiner rejected claims 1 - 4 and 12 - 17 under as being anticipated by Chudoba et al.

**Response**

Applicant respectfully traverses the rejection.

The test for anticipation under section 102 is whether each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131. The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP §2131. The elements must also be arranged as required by the claim. *In re Bond*, 15 USPQ2d 1566 (Fed. Cir. 1990).

It is respectfully submitted that Chudoba et al. fails to disclose each and every element as set forth in independent claims 2 and 13, as amended.

Claim 2 recites a combination of features, *inter alia*, "...wherein the pin holder (4) comprises at least two shell parts (10, 10'), which can be fitted together along the longitudinal center axis (3), each shell part having a pivotable cladding part."

Claim 13 recites a combination of features, *inter alia*, a method for connecting a connector-plug part (1) as claimed claim 8 to the end of an optical waveguide cable (7) using a pre-assembled unit as claimed in claim 12.

Claim 16 recites a combination of features, *inter alia*, a device for carrying out the method as claimed in claim 13.

In the case of the present exemplary embodiment, each shell part 10, 10' forms over the entire length of the cable receiving section 6 a cladding part 8, 8', which is connected to the pin receiving section 5 by a film hinge 9.

Chudoba et al. discloses a method of positioning and releasable locking an optical fiber in a fixed position. Adapter 10 includes a pair of gripper members 12 and 14 which carry resold, foam pads 16 and 18, respectively. Gripper members 12 and 14 are individually mounted, by pins 20 and 22, respectively, upon rectangular portion 24, which integrally joins and extends axially from cylindrical portion 26, of support member 28. Gripper members 12 and 14 are pivotally movable about pins 20 and 22 between a first position shown in FIGS. 1 and 2, wherein opposing surfaces of pads 16 and 18 are in mutual contact, and a second position, shown in FIG. 3, wherein the pads are separated. The adapter further comprises locking member 30, in the form of a hollow cylindrical sleeve having an inside diameter slightly larger than the diameter of cylindrical portion 26 of support member 28.

Chudoba et al. may show gripper members 12 and 14 that are capable of assembly similar to the shell parts 10, 10' of the present invention to receive fiber 68. However, support member 28 and locking member 30 in Chudoba et al. cannot be fitted together in such a way.

From the present claims, it is clear that shell parts 10, 10' include the cable receiving section 6 as well as the pin receiving section 5. Furthermore, the pivotable gripper members 12 and 14 in Chudoba et al. are preassembled on the support member 28. In contrast, the cladding parts 8, 8' of the present invention are connected to the pin receiving section 5 by a film hinge 9.

Therefore, Applicant respectfully submits that independent claim 2, independent method claim 13, and independent device claim 16 define over Chudoba et al.

As claims 1 and 3 have been canceled, the rejection of these claims is now deemed moot.

Moreover, as claims 4, 12, and 14, 15, and 17 depend from one of independent claims 2, 13, and 16, these claims are believed to be allowable for at least similar reasons.

Therefore, Applicant respectfully requests that the rejection of the claims under 35 U.S.C. § 102 be withdrawn.

### **Claim Rejection Under 35 U.S.C. § 103 (a)**

The Examiner rejected claims 1 - 6 and 13 - 17 as being unpatentable over Barlow et al. and further in view of Harman et al.; and rejected claim 7 as being unpatentable over Barlow et al. and Harman et al. and further in view of Destanque et al.

### **Response**

Applicant respectfully traverses the rejection.

To establish a *prima facie* case of obviousness, the Examiner must establish: (1) that some suggestion or motivation to modify the references exists; (2) a reasonable expectation of success; and (3) that the prior art references teach or suggest all the claim limitations. Amgen, Inc. v. Chugai Pharm. Co., 18 USPQ2d 1016, 1023 (Fed. Cir. 1991); In re Fine, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988); In re Wilson, 165 USPQ 494, 496 (C.C.P.A. 1970).

Applicant traverses the rejection because all three prongs for a *prima facie* case of obviousness have not been established for the rejections. Specifically, the combination of references fails to teach or suggest all the claim limitations.

The Barlow et al. patent discloses a fiber optic splice assembly, which main purpose is to hold fibers in position. Such an assembly is not a connector-plug part. There is no connection foreseen to another part in the assembly of the Barlow et al. patent.

Likewise, the Harman et al. patent discloses a fusion splice element for use in splicing optical fibers. For the splicing operation, a fusion assembly including electrodes (for melting the fibers together) is integrated in the element. The fusion splice element is a tool for connecting optical fibers together (i.e. by splicing) but this element is not part of an optical connection. After a fusion process is finished the spliced fiber will be removed from the fusion splice element. There is no permanent connection between the fiber(s) and the fusion splice element such as it is a premise of a connector-plug part arrangement by definition.

In contrast to the presently claimed invention, the cited prior art combination does not disclose, teach or suggest "a connector-plug pin" or "at least one cladding part, which can be pivoted at a joint" as recited in independent claims 2, 7, 8, 13, and 16.

On page 5 of the Office Action, the Examiner acknowledges that these features are not disclosed, taught or suggested by the Barlow et al. patent. The Examiner cites Harman et al. in an attempt to cure the deficiencies of Barlow et al. However, Harman may show base member 50 and separate lid 54 that are capable of assembly similar to the shell parts 10, 10' of the present invention to receive a fiber. However, there are no cladding parts in Harman et al. as in elements 8, 8' of the present invention to be fitted together in such a way.

From the present claims, it is clear that shell parts 10, 10' include the cable receiving section 6 as well as the pin receiving section 5. Furthermore, the pivotable base member 50 and separate lid

54 in Harman et al. are preassembled on each other. In contrast, the cladding parts 8, 8' of the present invention are connected to the pin receiving section 5 by a film hinge 9.

Applicant submits that the cited prior art combination does not disclose, teach or suggest "a connector-plug pin" or "at least one cladding part, which can be pivoted at a joint" as recited in the independent claims.

Besides the non-disclosed features of the connector-plug pin and the cladding part that can be pivoted as stated by the Examiner, the Examiner overlooks that the arrangement disclosed in the Barlow et al. patent could not be considered as a comparable generic type. The presently claimed invention relates to a connector-plug part for an optical plug-in connection. Such a connector-plug part could be, for example, connected to a socket part (which could be connected to a corresponding connector-plug housing; see last paragraph of the description). But the Barlow et al. patent discloses a fiber optic splice assembly, which main purpose is to hold fibers in position. Such an assembly is not a connector-plug part. There is no connection foreseen to another part. Furthermore, it should be noted that the feature that the optical waveguide cable can be fixed in a tension-resistant manner is not shown in Barlow et al.

The combination of the Barlow et al. patent and the Harman et al. patent would not result in the claimed invention. Harman et al. clearly does not disclose a connector-plug part. Indeed, the Harman et al. patent shows a fusion splice element for use in splicing optical fibers. For the splicing operation a fusion assembly including electrodes is integrated in the mention element. Such a fusion splice element relates to a completely different technical field. The fusion splice element is a tool for connecting optical fibers together (in other words, by splicing) but this element is not part of an optical connection. After a fusion process is finished the spliced fiber will be removed from the



fusion splice element. There is no connection between the fibers and the fusion splice element such as it is a premise of a connector-plug part arrangement by definition.

Indeed Harman et al. shows arrangements containing parts which can be pivoted at a joint. However, neither the “butterfly” configuration of Figure 1 of the Harman et al. patent nor the embodiment shown in Figure 5b of the Harman et al. patent have a section in which a fiber is held while the hinged lid (14, 72) is pivoted.

Moreover, the prior art does not teach that a plug pin can be pre-assembled in a pin receiving section (*see* present application at claim 2); (*see also* present application at page 2, lines 5 – 14.) In the Harman et al. patent, the optical fibers are only held by the lids when the lids are in the closed position. The embodiment of Figure 5a of the Harman et al. patent is not to be considered because the fusion/splicing does not take place in a pivoting region (60).

Therefore, Applicant respectfully submits that independent claims 2 and 8, independent method claim 13, and independent claim 16 define over the combination of Barlow et al. and Harman et al.

Regarding independent claim 7, the Destanque et al. patent does not cure the deficiencies of the Barlow et al. patent and the Harman et al. patent.

Destanque et al. discloses a make-up compact that includes a lid mounted on a base of the compact. The lid is connected at one of its sides to the base of the compact so that the make-up within the compact can be accessed when the lid is opened. The lid is connected to the base of the compact in a hinged fashion. However, the Destanque et al. patent does not disclose, teach or suggest (and is completely silent as to) “a connector-plug pin” or “at least one cladding part, which can be pivoted at a joint” as recited in the independent claims. In fact, the Destanque et al. patent is

not even from the same field of technology as the presently claimed invention. Thus, the presently claimed invention is not rendered obvious by the cited prior art combination.

The rejection of claims 1 and 3 is deemed moot in view of the cancellation of these claims.

Moreover, as claims 4 - 6 and 14, 15, and 17 depend from one of the independent claims, these claims are believed to be allowable for at least similar reasons.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejections under 35 U.S.C. §103(a).

#### **Allowable Claims**

Claims 9 - 11 were objected to as being based upon a rejected base claim but would be allowable if rewritten in independent form to include the base claim and any intervening claims.

#### **Response**

In response, Applicant has explained above how claim 8 distinguishes over the combination of references. Moreover, as claims 9 - 11 depend from independent claim 8, these claims are believed to be allowable for at least similar reasons.


#### **CONCLUSION**

In light of the foregoing, Applicant submits that the application is now in condition for allowance. If the Examiner believes the application is not in condition for allowance, Applicant respectfully requests that the Examiner contact the undersigned attorney if it is believed that such contact will expedite the prosecution of the application.

In the event this paper is not timely filed, Applicant petitions for an appropriate extension of time. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 14-0112.

Respectfully submitted,  
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